

# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

|                                                                                                                                         |                                                                                          |                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| Applicant's or agent's file reference<br><b>0000055497</b>                                                                              | <b>FOR FURTHER ACTION</b>                                                                | See item 4 below                                                             |
| International application No.<br><b>PCT/EP2004/003551</b>                                                                               | International filing date ( <i>day/month/year</i> )<br><b>02 April 2004 (02.04.2004)</b> | Priority date ( <i>day/month/year</i> )<br><b>03 April 2003 (03.04.2003)</b> |
| International Patent Classification (8th edition unless older edition indicated)<br><b>See relevant information in Form PCT/ISA/237</b> |                                                                                          |                                                                              |
| Applicant<br><b>BASF AKTIENGESELLSCHAFT</b>                                                                                             |                                                                                          |                                                                              |

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
2. This REPORT consists of a total of 5 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- |                                     |              |                                                                                                                                                                 |
|-------------------------------------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> | Box No. I    | Basis of the report                                                                                                                                             |
| <input checked="" type="checkbox"/> | Box No. II   | Priority                                                                                                                                                        |
| <input type="checkbox"/>            | Box No. III  | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability                                                                |
| <input type="checkbox"/>            | Box No. IV   | Lack of unity of invention                                                                                                                                      |
| <input checked="" type="checkbox"/> | Box No. V    | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/>            | Box No. VI   | Certain documents cited                                                                                                                                         |
| <input type="checkbox"/>            | Box No. VII  | Certain defects in the international application                                                                                                                |
| <input type="checkbox"/>            | Box No. VIII | Certain observations on the international application                                                                                                           |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

|                                                                                                                                     |                                                                                                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The International Bureau of WIPO<br>34, chemin des Colombettes<br>1211 Geneva 20, Switzerland<br><br>Facsimile No. +41 22 740 14 35 | Date of issuance of this report<br><b>02 March 2006 (02.03.2006)</b><br><br>Authorized officer<br><br><div style="text-align: center; font-weight: bold;">Agnes Wittmann-Regis</div><br>Telephone No. +41 22 338 89 70 |
|-------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

# PCT

**Translation**

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

|                                                                                          |                                                                         |                                                                                                                 |  |
|------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|--|
| <p>To:</p>                                                                               |                                                                         | <p><b>PCT</b></p> <p>WRITTEN OPINION OF THE<br/>INTERNATIONAL SEARCHING AUTHORITY</p> <p>(PCT Rule 43bis.1)</p> |  |
| <p>Date of mailing<br/>(day/month/year)</p>                                              |                                                                         | <p><b>FOR FURTHER ACTION</b></p> <p>See paragraph 2 below</p>                                                   |  |
| <p>Applicant's or agent's file reference<br/><b>0000055497</b></p>                       |                                                                         | <p><b>FOR FURTHER ACTION</b></p> <p>See paragraph 2 below</p>                                                   |  |
| <p>International application No.<br/><b>PCT/EP2004/003551</b></p>                        | <p>International filing date (day/month/year)<br/><b>02.04.2004</b></p> | <p>Priority date (day/month/year)<br/><b>03.04.2003</b></p>                                                     |  |
| <p>International Patent Classification (IPC) or both national classification and IPC</p> |                                                                         |                                                                                                                 |  |
| <p>Applicant<br/><b>BASF AKTIENGESELLSCHAFT</b></p>                                      |                                                                         |                                                                                                                 |  |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |              |                                                                                                                                                                      |           |                      |                                     |            |          |                          |             |                                                                                                  |                          |            |                            |                                     |           |                                                                                                                                                                      |                          |            |                         |                          |             |                                                  |                          |              |                                                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----------------------|-------------------------------------|------------|----------|--------------------------|-------------|--------------------------------------------------------------------------------------------------|--------------------------|------------|----------------------------|-------------------------------------|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|------------|-------------------------|--------------------------|-------------|--------------------------------------------------|--------------------------|--------------|-------------------------------------------------------|
| <p>1. This opinion contains indications relating to the following items:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 30%;">Box No. I</td> <td>Basis of the opinion</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table> |              | <input checked="" type="checkbox"/>                                                                                                                                  | Box No. I | Basis of the opinion | <input checked="" type="checkbox"/> | Box No. II | Priority | <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability | <input type="checkbox"/> | Box No. IV | Lack of unity of invention | <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement | <input type="checkbox"/> | Box No. VI | Certain documents cited | <input type="checkbox"/> | Box No. VII | Certain defects in the international application | <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |
| <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Box No. I    | Basis of the opinion                                                                                                                                                 |           |                      |                                     |            |          |                          |             |                                                                                                  |                          |            |                            |                                     |           |                                                                                                                                                                      |                          |            |                         |                          |             |                                                  |                          |              |                                                       |
| <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Box No. II   | Priority                                                                                                                                                             |           |                      |                                     |            |          |                          |             |                                                                                                  |                          |            |                            |                                     |           |                                                                                                                                                                      |                          |            |                         |                          |             |                                                  |                          |              |                                                       |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Box No. III  | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability                                                                     |           |                      |                                     |            |          |                          |             |                                                                                                  |                          |            |                            |                                     |           |                                                                                                                                                                      |                          |            |                         |                          |             |                                                  |                          |              |                                                       |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Box No. IV   | Lack of unity of invention                                                                                                                                           |           |                      |                                     |            |          |                          |             |                                                                                                  |                          |            |                            |                                     |           |                                                                                                                                                                      |                          |            |                         |                          |             |                                                  |                          |              |                                                       |
| <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Box No. V    | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |           |                      |                                     |            |          |                          |             |                                                                                                  |                          |            |                            |                                     |           |                                                                                                                                                                      |                          |            |                         |                          |             |                                                  |                          |              |                                                       |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Box No. VI   | Certain documents cited                                                                                                                                              |           |                      |                                     |            |          |                          |             |                                                                                                  |                          |            |                            |                                     |           |                                                                                                                                                                      |                          |            |                         |                          |             |                                                  |                          |              |                                                       |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Box No. VII  | Certain defects in the international application                                                                                                                     |           |                      |                                     |            |          |                          |             |                                                                                                  |                          |            |                            |                                     |           |                                                                                                                                                                      |                          |            |                         |                          |             |                                                  |                          |              |                                                       |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Box No. VIII | Certain observations on the international application                                                                                                                |           |                      |                                     |            |          |                          |             |                                                                                                  |                          |            |                            |                                     |           |                                                                                                                                                                      |                          |            |                         |                          |             |                                                  |                          |              |                                                       |
| <p>2. <b>FURTHER ACTION</b></p> <p>If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.</p> <p>If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.</p> <p>For further options, see Form PCT/ISA/220.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |              |                                                                                                                                                                      |           |                      |                                     |            |          |                          |             |                                                                                                  |                          |            |                            |                                     |           |                                                                                                                                                                      |                          |            |                         |                          |             |                                                  |                          |              |                                                       |
| <p>3. For further details, see notes to Form PCT/ISA/220.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |              |                                                                                                                                                                      |           |                      |                                     |            |          |                          |             |                                                                                                  |                          |            |                            |                                     |           |                                                                                                                                                                      |                          |            |                         |                          |             |                                                  |                          |              |                                                       |

|                                               |                           |
|-----------------------------------------------|---------------------------|
| <p>Name and mailing address of the ISA/EP</p> | <p>Authorized officer</p> |
| <p>Facsimile No.</p>                          | <p>Telephone No.</p>      |

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/EP2004/003551

**Box No. I      Basis of this opinion**

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐

This opinion has been established on the basis of a translation from the original language into the following language

\_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

- a. type of material

☐

a sequence listing

☐

table(s) related to the sequence listing

- b. format of material

☐

in written format

☐

in computer readable form

- c. time of filing/furnishing

☐

contained in the international application as filed.

☐

filed together with the international application in computer readable form.

☐

furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003551

Box No. II

Priority

1. ☒ The following document has not yet been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003551

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

|                               |        |      |     |
|-------------------------------|--------|------|-----|
| Novelty (N)                   | Claims | 1-28 | YES |
|                               | Claims |      | NO  |
| Inventive step (IS)           | Claims | 1-28 | YES |
|                               | Claims |      | NO  |
| Industrial applicability (IA) | Claims | 1-28 | YES |
|                               | Claims |      | NO  |

2. Citations and explanations:

D1: WO-A-0053664

1.0 Compounds Ia, Ib and Ic of the present claim 1 are known individually (for example, see page 7 of D1). However, none of the cited documents discloses a mixture of at least two of Ia, Ib and Ic. The subject matter of the present claims is therefore novel over these documents (PCT Article 33(2)).

2.0 Document D1 is regarded as being the closest prior art to the subject matter of the present claims. The mixture of Ia, Ib and Ic is suggested neither in D1 nor in the other cited documents. Consequently the subject matter of the present claims involves an inventive step (PCT Article 33(3)).